

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

MATTHEW BROCK

v.

UNITED STATES OF AMERICA,

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1:12-cv-294/1:06-cr-75

Judge Curtis L. Collier

ORDER

Matthew Brock (“Brock”) filed a motion to vacate, set aside, or correct his revoked supervised release sentence pursuant to 28 U.S.C. § 2255 (Criminal Court File No. 75).¹ This matter is before the Court on a motion by Brock requesting an extension of time of forty-five days from December 5, 2012—which the Court calculates as up to and including January 22, 2013—in which to file a response to the government’s reply to his § 2255 motion (Criminal Court File No. 82). Brock claims that due to the amount of time that has lapsed since he appeared in court (his final revocation hearing was on December 15, 2011), he needs additional time to access and review the record to reply to instances, dates, and events cited in the government’s response.

Although 28 U.S.C. § 2255 does not require a reply, a prisoner may file a reply to the government’s answer to the § 2255 motion. *See United States v. Lefkowitz*, 289 F.Supp.2d 1076, 1082, n.10 (D.Minn. 2003)(explaining the use of the traverse (a reply) was to preserve a defendant’s objections to the government’s factual assertions in its answer which were considered at common law to be conclusive unless challenged by traverse and noting the government’s factual assertions are not longer afforded the presumption of validity).

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case.

Thus, although a reply is unnecessary, the Court generously will give Brock a limited extension of time in which to file a reply.

Accordingly, Brock's motion for an extension of time in which to file a reply is **GRANTED** (Crim. Court File No. 82). Brock **SHALL** file his reply on or before January 22, 2013. The Court directs Brock's attention to L.R. 7.1(c) which provides that a reply brief shall directly reply to the points and authorities in the government's response to his § 2255 motion and *shall not* be used to reargue the points and authorities included in his § 2255 motion or to present any new issues.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE